



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

July 21, 2020

BY ELECTRONIC MAIL

Mr. Alexander Decter
Oberwill Corporation
c/o Frederick R. Dunne, Jr., Esq.
Dunne, Dunne & Cohen, LLC
683 Kearny Ave., Ste 1
Kearny, NJ 07032

Re: Request for Information
Pierson's Creek Superfund Site, Newark, New Jersey

Dear Mr. Decter:

The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threat of release of hazardous substances, pollutants, or contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA" or the "Superfund law"), 42 U.S.C. Sections 9601-9675.

This letter seeks your cooperation on behalf of addressee Oberwill Corporation in providing information relating to Oberwill Corporation with an address of 366-394 Wilson Avenue (Block 5038, Lot 97) in Newark, New Jersey. We encourage you to give this matter your immediate attention. A complete and truthful response to the attached Request for Information should be provided **within 30 days** of your receipt of this letter. Should this deadline be difficult to meet in light of the COVID-19 situation, please contact one of the EPA contact persons identified below to discuss an alternative response due date.

EPA has documented the release and threatened release of hazardous substances into the environment at the Pierson's Creek Superfund Site ("Site") in Newark, New Jersey, including hazardous substances that are or were discharged into Pierson's Creek and its tributaries. The Oberwill facility at 366-394 Wilson Avenue is located at the Site.

Under Section 104(e)(2) of the Superfund law, 42 U.S.C. § 9604(e)(2), EPA has broad information gathering authority which allows EPA to require persons to provide information and/or documents relating to, among other things, materials generated, treated, stored, or disposed of at or transported to

a facility and the nature and extent of a release of a hazardous substance or pollutant or contaminant at or from a facility. EPA may also request information pertaining to the ability of a person to pay for or perform a cleanup. Additional information about the Superfund law may be found at <https://www.epa.gov/superfund/superfund-cercla-overview>. The enclosed Request for Information seeks to obtain information concerning Oberwill Corporation and its operations at the Site.

While EPA seeks your cooperation in this investigation, compliance with this Request for Information is required by law. When you have prepared your response to the Request for Information, please sign the enclosed "Certification of Answers to Request for Information" and return that Certification to EPA with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law (18 U.S.C. § 1001). In addition, Section 104(e) authorizes EPA to pursue penalties for failure to comply with Requests for Information. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold from EPA the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions Section in Attachment A, including the requirement for supporting your claim for confidentiality.

Please further note that if, after submitting your response, you obtain additional or different information concerning the matters addressed by our information request, it is necessary that you promptly notify EPA. If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.*

See the enclosed Instructions for information on how to respond to the enclosed questions. If you are able to send your response to this Request for Information by electronic mail, please send electronic copies (PDF or JPEG) of it to Pamela Tames and Amelia Wagner at the e-mail addresses below. Hard copies of your response should be mailed to:

Pamela Tames, P.E., Remedial Project Manager
Superfund and Emergency Management Division
U.S. Environmental Protection Agency
290 Broadway - 19th Floor
New York, NY 10007-1866
tames.pam@epa.gov

with a copy to:

Amelia Wagner, Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway - 17th Floor
New York, NY 10007-1866
wagner.amelia@epa.gov

If you have any questions regarding this Request for Information, or if you wish to discuss this matter further, please contact Ms. Tames at (212) 637-4255 with technical questions or Ms. Wagner at (212) 637-3141 with legal questions. Please note that all communications from attorneys should be directed to Ms. Wagner.

We appreciate and look forward to your prompt response to this information request.

Sincerely,

ERIC WILSON

Digitally signed by ERIC WILSON
Date: 2020.07.21 18:00:17 -04'00'

Eric J. Wilson, Deputy Director
Enforcement and Homeland Security
Superfund and Emergency Management Division

Attachments

cc: Pamela Tames, P.E., EPA
Amelia Wagner, Esq., EPA

ATTACHMENT A

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. A complete and separate response should be given for each question. For each question contained in this letter, if the information or documents responsive to this information request are not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Identify each answer with the number of the question and the subpart to which it responds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
3. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. Consult with all present and past employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
4. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
5. If you are unable to give a detailed and complete answer or to provide any of the information or documents requested, indicate the reason for your inability to do so.
6. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, email address, phone number and the reasons for your belief.
7. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, and number of pages and all recipients of the document with its addresses. If anything is omitted from a document produced in your response to the Request for Information, state the reason for and the subject matter of the omission.
8. If you cannot provide a precise answer to a question, please approximate, but in any such instance, state the reason for your inability to be specific.
9. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim which covers part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F).

If you make a claim of confidentiality for any of the information you submit to EPA, you must address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which the confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others
- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determination or a reference to them, if available; and
- f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "Confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA review. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e)(7) and EPA's pre-disclosure notification procedures. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you. EPA provides no assurances that all information that you assert as confidential business information will not be publicly disclosed. Any determination regarding public disclosure will be based on a review of the information and relevant countervailing factors.

B. Definitions

1. The term **“you”** shall mean the addressee of this Request for Information, the addressee’s officers, managers, employees, contractors, trustees, partners, successors, assigns or agents.
2. As used herein, the terms **“company”** or **“your company”** refer not only to Oberwill Corporation as it is currently named and constituted, but also to all predecessors or successors in interest and all subsidiaries, divisions, affiliates and branches of the Company and all of its predecessors or successors in interest.
3. The term **“Site”** shall mean the Pierson’s Creek Superfund Site located in Newark, New Jersey. The Site includes the Troy Chemical Company property located at 1 Avenue L, and Pierson’s Creek, which begins in the vicinity of Avenue L, proceeds through open drainage ditches and culverts and covered pipes until it discharges into Port Newark. The Site also includes all unnamed tributaries to the Creek.
4. The terms **“facility”**, **“hazardous substance”**, and **“person”**, shall have the meanings set forth in Section 101(9), (14), and (21) of CERCLA, 42 U.S.C. §§ 9601(9), (14), and (21) respectively.
5. The terms **“disposal,” “hazardous waste”** and **“storage”** shall have the meanings contained in Sections 1004(3), (5) and (33) of Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6903(3), (5) and (33), respectively.
6. The term **“pollutant or contaminant”** shall have the same definition as that contained in Section 101(33) of CERCLA and includes any mixtures of such pollutants or contaminants with any other substances.
7. The term **“identify”** means, with respect to a natural person, to set forth the person’s name, present or last known employer, business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, occupation, position or business. With respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) the term **“identify”** means to provide its full name, address, and affiliation with the individual and/or company to whom this request is addressed.
8. The term **“document”** and **“documents”** shall include any written, recorded, computer generated, or visually or aurally reproduced material of any kind in any medium in the company’s possession, custody, or control or known by the company to exist, including originals and all non-identical copies.
9. The term **“release”** shall have the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
10. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.

ATTACHMENT B

REQUEST FOR INFORMATION

- 1) The following question pertains to Oberwill Corporation with an address of 366-394 Wilson Avenue in Newark, New Jersey. If Oberwill Corporation did business under more than one name, answer the questions below for each company.
 - a) State the legal name of the company.
 - b) State the name and address of the president or the chairman of the board, or other presiding officers of the company.
 - c) Identify the state of incorporation of the company and the company's agent for service of process in the state of incorporation and in New Jersey.
- 2) Does Oberwill Corporation own the property at 366-394 Wilson Avenue in Newark, New Jersey? If so, from whom did your company purchase the property and in what year? Please describe the relationship, if any, between Oberwill Corporation and any of the parties that operated the facility prior to Oberwill.
- 3) Is Oberwill Corporation a subsidiary or affiliate of another company? If yes, please identify the name of each such related company. For each related company, describe the relationship to Oberwill Corporation and indicate the date and manner in which each relationship was established.
- 4) What year did Oberwill Corporation begin to operate at 366-394 Wilson Avenue in Newark, New Jersey ("the facility")? What year did Oberwill Corporation cease operations?
- 5) Please provide a copy of the deed or deeds to the property or properties that comprise the facility. If the property(ies) is/are held in the name of another entity, please describe the name of the entity, its relationship to Oberwill Corporation and list the company president or chairman of the board or other presiding officers of that company.
- 6) If this information has not already been previously provided, please describe how the name Globe Metals is connected with the facility and if Globe Metals has any relationship with Oberwill Corporation.
- 7) If this information has not already been previously provided, please describe how the name Frema Smelting is connected with the facility and if Frema Smelting has any relationship with Oberwill Corporation.
- 8) Did Oberwill Corporation or any related company at the facility receive, utilize, manufacture, discharge, release, store or dispose of any materials containing the following substances at the facility:

	Yes	No
2,3,7,8 tetrachlorodibenzo-p-dioxin	_____	_____
or other dioxin compounds	_____	_____

Dichlorodiphenyl-trichloroethate (DDT)	_____	_____
Benzene	_____	_____
Ethyl benzene	_____	_____
Total Petroleum Hydrocarbons (TPH)	_____	_____
Polyaromatic Hydrocarbons (PAH)	_____	_____
If "yes", please list the specific compounds.		
Xylene	_____	_____
Toluene	_____	_____
PCBs	_____	_____
Arsenic	_____	_____
Cadmium	_____	_____
Chromium	_____	_____
Copper	_____	_____
Lead	_____	_____
Mercury	_____	_____
Silver	_____	_____

9) For the time period during which Oberwill Corporation was in operation at the facility:

- a) please describe the manufacturing processes for which the hazardous substances, including, but not limited to, any substances listed in response to item (8), were a product or by-product.
- b) During what parts of the manufacturing processes identified in the response to question (9)(a), above, were hazardous substances, including, but not limited to, the substances listed in response to question (8), generated?
 - i) Describe the chemical composition of these hazardous substances.
 - ii) For each process, what amount of hazardous substances was generated per volume of finished product?
 - iii) Were these hazardous substances combined with wastes from other processes? If so, please identify such wastes and the other processes

10) Describe the methods of collection, storage, treatment, and disposal of all hazardous substances at the facility, including, but not limited to, the substances identified in response to questions (8) and (9). Include information on the following:

- a) Identify all persons who arranged for and managed the processing, treatment, storage and disposal of hazardous substances.
- b) If hazardous substances were taken off-site by a hauler or transporter, provide the names and addresses of the waste haulers and the disposal site locations.

- c) Describe all storage practices employed at the facility with respect to all hazardous substances from the time operations commenced until they terminated.
 - i) If drums were stored outside, were the drums stored on the ground or were they stored on areas that had been paved with asphalt or concrete? Please provide a complete description of these storage areas.
 - ii) When drums were stored outside, were empty drums segregated from full drums?
- d) What processes were used to treat waste generated at the facility? What was done with the waste after it was treated?

11) For process waste waters generated at the facility which contained any hazardous substances, including, but not limited to, the substances listed in response to questions (8) and (9):

- a) Where was the wastewater discharged and during what years?
- b) Was the wastewater discharged into a sanitary sewer and if so, during what years?
- c) Was the wastewater treated before being discharged to the sanitary sewer and if so, how? Please be specific.
- d) If the wastewater was not discharged to the sanitary sewer, where was it disposed and during what years?
- e) Please provide the results of any analyses performed on any waste process streams generated at the facility.
- f) Have any floor drains or other disposal drains at the facility ever discharged to a location other than a sanitary sewer? If so, where did they discharge and during what years?
- g) Did any storm sewers, catch basins or lagoons exist at any time at the facility and if so, during what years?
 - i) If catch basins or lagoons existed, were they lined or un-lined?
 - ii) What was stored in the catch basins or lagoons?
 - iii) Where was the discharge from the catch basin or lagoon released and during what years? Was this discharge treated before it was released and if so, how and during what years? What was the chemical composition of the discharge?
- h) Please supply diagrams of any wastewater collection, transport or disposal systems at the facility, including sub-floor piping within building foundations.

12) For each hazardous substance, including, but not limited to, the substances listed in response to question (8) or identified in the responses to question (9), above:

- a) please provide the amount generated during the operation of the facility on an annual basis.

- b) Were any such hazardous substances disposed of in or discharged to Pierson's Creek including its unnamed tributaries? If yes, identify the hazardous substances, estimate the amount of material discharged to or disposed of in Pierson's Creek including its tributaries and the frequency with which this discharge or disposal occurred. Also, please include any sampling of the Creek or unnamed tributary which may have been done after any discharge or disposal.
- 13) Please identify any leaks, spills, explosions, fires or other incidents of accidental material discharge that occurred at the facility during which or as a result of which any hazardous substances, including, but not limited to, the substances listed in response to questions (8) or (9), were released on the property, into the waste water or storm drainage system at the facility or to Pierson's Creek including its unnamed tributaries. Provide any documents or information relating to these incidents, including the ultimate disposal of any contaminated materials. If available, please provide the results of any sampling of the soil, water, air or other media after any such incident and before and after clean-up.
- 14) Was the Oberwill Corporation facility ever subject to flooding? If so, what caused the flooding?
 - a) Did storm sewer back-ups occur at the facility, and/or did Pierson's Creek or its unnamed tributaries overflow its banks?
 - b) Please provide the date and duration of each flood event.
- 15) If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
- 16) Provide copies of all income tax returns, including all attachments thereto, submitted by Oberwill Corporation to the Internal Revenue Service, the State of New Jersey, and any other state in which tax returns were filed for the last three (3) years.
- 17) List all agreements or contracts, including but not limited to insurance policies, which may indemnify your company or business, and its present or past owners, operators, partners, and/or shareholders, with respect to any costs that you may have to pay due to EPA's response action conducted at the Site. Provide a copy of each such agreement, contract, and insurance policy. In addition, for all such insurance policies which your company or business had from the date your company began operations at the facility to the present, state the name of the insurance company providing the insurance, the type of coverage provided under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, non-sudden or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.
- 18) State whether any claim or claims have been made to any insurance company for any loss or damage related to operation at the Site and if so, identify each claim by stating the name of the claimant, the name and address of the insurance company, policy number, named insured on the policy, claim number, date of claim, amount of claim, the specific loss or damage claimed, the current status of the claim, and the amount, date and recipient of any payment made on the claim, including a compromise of settlement of the claim.

- 19) If there are any insurance policies responsive to questions 17 or 18 above of which you are aware but neither possess copies, or are unable to obtain copies, identify each such policy to the best of your ability by identifying:
- a) The name and address of each insurer and of the insured;
 - b) The type of policy and policy numbers;
 - c) The per occurrence policy limits of each policy; and
 - d) The effective dates for each policy.
- 20) Has Oberwill Corporation at any time since it terminated its active operations at the facility in Newark conveyed by gift or otherwise any asset or property interest of the company to another entity or person? If so, please provide complete information regarding such conveyance, including the following:
- a) Identify the asset or property interest transferred;
 - b) the name and address of the entity or person to whom such assets or property interest was conveyed, and the date of the conveyance;
 - c) the fair market value of such asset or property interest on the date of such conveyance; and
 - d) the consideration or payment received by you from the recipient of such conveyance in exchange for the conveyance.
- 21) Please provide a detailed description of any civil, criminal or administrative proceedings against Oberwill Corporation for violations of any local, State or federal laws or regulations relating to water pollution or hazardous waste generation, storage, transport or disposal at or from the facility. Provide copies of all pleadings and depositions or other testimony given in these proceedings.
- 22) Provide the name, address, telephone number, title and occupation of the person(s) answering this Request for Information and state whether such person(s) has personal knowledge of the responses. In addition, identify each person who assisted in any way in responding to the Request for Information and specify the question to which each person assisted in responding. Please include the names and addresses of former employees who were contacted to respond to any of the questions.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____:

County of _____:

I certify under penalty of perjury that I am authorized to respond on behalf of Oberwill Corporation, I have personally examined and am familiar with the information and all documents submitted in response to EPA's Request for Information, and based on my inquiry of those individuals immediately responsible for obtaining the information I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that Oberwill Corporation is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or its response thereto should become known or available to Oberwill Corporation.

Executed on _____, 2020

NAME (print or type)

TITLE (print or type)

SIGNATURE